



DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FY2012 LEGISLATIVE REPORT May 2011

Director's Message

The FY2012 General Assembly Session began with new faces and new opportunities. There were approximately 40 new senators and delegates, mostly delegates. This session also began with the swearing-in of Governor O'Malley and Lt. Governor Brown for a second term. During this year, the Department lost some folks to retirement – Deputy Secretary Phil Pié, Deputy Commissioner Paul O'Flaherty, Major Doug Cloman, and AGA Alan Eason. But the Session kept revolving. We also welcomed new additions such as Christina Lentz (OPPRS).

The budget process was painful with the considerations of changing the State Employees' Pension System, as well as every other pension system, and the Voluntary Separation Program. The Department survived it all, with a lot of language requirements in the form of Joint Chairmen's Reports (10 reports).

Our Departmental bills also had a rough road to travel. The Department submitted 13 proposal packages to the Governor's Legislative Office and one was included in the Administration's Budget Reconciliation and Finance Act of 2011. Ten (10) bills were introduced to the General Assembly by way of the Governor's Legislative Office. Of those ten bills, only three were passed and one bill was withdrawn from the Senate Finance Committee. Therefore, the passage rate on the 2011 bills was 30.0 percent, slightly lower than last session.

We were very instrumental in passage of the sexual offender bill (HB1020) sponsored by Chairman Vallario, and Delegates Stifler and Valderrama. As well as a host of other bills such as HB749/SB362 – Correctional Services – DPP - Supervision Fees; HB752 – MCE - Prohibiting Access to Personal Information; and HB899 - DPP-Warrant Apprehension Unit - Powers.

I would like to thank everyone for taking part in the FY2012 General Assembly Session

and for your supportive partnerships with the Department. TOGETHER WE CAN PROTECT THE CITIZENS OF THE STATE OF MARYLAND!

Rhea L. Harris

Director
Office of Legislative Affairs

Passed Departmental Bills

[Senate Bill 66 – Criminal Procedure – Criminal Justice Information System Central Repository – Reportable Events \(Signed on April 12, 2011\)](#)

Repeals the requirement that the release of a person after arrest without the filing of a charge be reported to the Criminal Justice Information System central Repository. Therefore, ends the need for automatic expungement of these records.

[House Bill 133 – Courts and Judicial Proceedings – Juvenile Records – Access by the Division of Pretrial Detention and Services \(Signed on April 12, 2011\)](#)

Provides an exception to a provision providing for the confidentiality of juvenile records by authorizing the Division of Pretrial Detention and Services to access specified juvenile records under specified circumstances.

[House Bill 136 – Family Law - Protective Orders – Notification of Services \(Signed on April 12, 2011\)](#)

Requires that the electronic system used to notify the Department of Public Safety and Correctional Services of the service of a temporary protective order on a domestic violence respondent be approved and provided by the Department. It also extends to the end of December 31, 2013, the termination date of provisions of law that provide for notice of service on a respondent or specified protective orders.

Failed Departmental Bills

Senate Bill 63 – Police and Correctional Training Commissions – Staff – Appointing and Supervisory Authority (Withdrawn by DPSCS)

Would have altered the appointing authority for, supervisory authority over, and the classification of the executive director, the deputy director, and the other employees of the Police and Correctional Training Commissions.

Senate Bill 64 – Criminal Procedure – Criminal Injuries Compensation Board – Definition of Victim

Would have altered the definition of victim as it relates to the Criminal Injuries Compensation Board to include a person who suffers psychological injury as a result of additional crimes. It would have altered the definition to provide that specified psychological injury does not have to be a direct result of specified crimes.

House Bill 132 – Department of Public Safety and Correctional Services – Secretary – Acting Capacity

Would have added members of the Secretary's executive staff, one of whom shall be designated by the Secretary of Public Safety and Correctional Services to be the acting Secretary when the Secretary is absent from the State or otherwise unavailable.

House Bill 135 – Courts and Judicial Proceedings – Crime Victims and Witness Funds – Court Costs

Would have increased criminal court costs for the Circuit and District Courts imposed on a defendant convicted of a crime by the Circuit Court or the District Court, that are deposited into the State Victims of Crime Fund, the Victim and Witness Protection and Relocation Fund, and the Criminal Injuries Compensation Fund.

House Bill 138 – Criminal Law - Contraband – Telecommunication Devices – Penalties

Would have made offenses relating to possessing, delivering, concealing, or receiving a telecommunication device in a place of confinement a felony, and increased the maximum penalties.

House Bill 1145 - Public Safety - 9-1-1 Emergency Telephone Systems - Prepaid Service - Collection of Surcharge

Would have established a prepaid wireless E 9-1-1 fee of 60 cents per retail transaction; provided for the collection of the E 9-1-1 fee and would have established conditions for whether a retail transaction has occurred in the State. It would have provided that the E 9-1-1 fee is the liability of the consumer and authorized a seller to deduct 2% of E 9-1-1 fees collected under the Act. The bill would have required sellers to remit collected E 9-1-1 fees to the Comptroller and for the Comptroller to deposit the E 9-1-1 fees into the 9-1-1 Trust Fund within 30 days of receipt.

House Bill 1147 - Correctional Services - Maryland Correctional Enterprises Goods and Services - Sales to State Employees

Would have authorized the sale of goods and services of Maryland Correctional Enterprises, on the open market, to an individual employed by the State.

FY2012 Operating and Capital Budget

House Bill 70/Senate Bill 85 – Budget Bill (Fiscal Year 2012)

House Bill 72/Senate Bill 87 – Budget Reconciliation and Financing Act of 2011

House Bill 71/Senate Bill 86 – Creation of a State Debt - Maryland Consolidated Capital Bond Loan of 2011, and the Maryland Consolidated Capital Bond Loans of 1996, 2003, 2004, 2005, 2006, 2007, 2008, 2009 and 2010

OTHER ENROLLED BILLS OF INTEREST

Sexual Offender Bills

Senate Bill 204/House Bill 1128 - Criminal Law - Sexual Crimes – Definitions

Alters the definition of "sexual act" to include an act in which a part of an individual's body is used to penetrate specified body parts of another individual; and alters the definition of "sexual contact."

[House Bill 1020 – Criminal Procedure - Sex Offender Registry](#)

Alters retroactive applicability of provisions of law so as to include a person who is convicted of further felonies; and alters the predicate offenses and minimum age for inclusion on a registry of juvenile sex offenders. It also requires juvenile registrants to appear at a DJS location at specified times to provide information and allow the Department of Juvenile Services to take a digital image of the juvenile registrant.

[Parole and Probation](#)[Senate Bill 362/House Bill 749 - Correctional Services - Division of Parole and Probation - Supervision Fee](#)

Requires the Department of Public Safety and Correctional Services and the local detention center, on the release of an individual supervised by the Division of Parole and Probation, to provide the individual with an oral and a written notice relating to the application for an exemption from a monthly parole supervision fee.

[Senate Bill 801/House Bill 919 – Swift and Certain Sanctions](#)

Requires the Department of Public Safety and Correctional Services to develop by October 1, 2012, a pilot program in two counties that creates a system of graduated administrative sanctions for violations of conditions of parole by releasees from the Division of Correction. It also requires the Department to make a annual report to the General Assembly on or before October 1 of each year beginning in 2013.

[House Bill 302 – Inmates – Life Imprisonment – Parole Approval](#)

Requires that, if the Board of Review decides to grant parole to an eligible person sentenced to life imprisonment who has served 25 years without application of diminution of confinement credits, and the Secretary approves the decision, the decision shall be transmitted to the Governor. In addition, it authorizes the Governor to disapprove the decision by written transmittal to the Board of Review; and it provides that if the Governor does not disapprove the decision within 180 days after receipt, the decision becomes effective.

[House Bill 794 - Division of Parole and Probation - Pre-Parole Investigations for Inmates of Local Facilities](#)

Requires the Division of Parole and Probation to complete and submit to the Parole Commission the results of pre-parole investigations of specified inmates in local correctional facilities within 60 days of commitment for the purpose of enabling the Parole Commission to determine the advisability of granting parole to those inmates.

[House Bill 899 - Division of Parole and Probation - Warrant Apprehension Unit – Powers](#)

Establishes the Warrant Apprehension Unit within the Division of Parole and Probation and provides that employees of the Warrant Apprehension Unit also have additional police powers. It includes employees of the Warrant Apprehension Unit in the defined term "police officer" in connection with provisions of law relating to the authority to make arrests.

[House Bill 1174 - Correctional Services - Revocation of Parole - Reimposition of Sentence](#)

Alters a provision of law relating to the revocation of a parole order so as to authorize the parole commissioner who conducted the hearing on the revocation of an inmate's order of parole to reimpose any unserved portion of the sentence originally imposed on the inmate. It also requires the Department of Public Safety and Correctional Services to submit a report; and for the termination the Act at the end of June 30, 2014.

[Education/Gang Related](#)[House Bill 38 – Nonpublic Schools Participating in State Funded Education Programs – Bullying, Harrassment, and Intimidation – Polices](#)

Requires nonpublic schools that participate in State-funded education programs to adopt by March 31, 2012, a policy prohibiting bullying, harassment, and intimidation; requiring the policy to include specified provisions. It encourages nonpublic schools to develop the policy in consultation with specified groups and to publicize the policy in a specified manner; and it provides that

employees who report acts of bullying, harassment, or intimidation are not civilly liable under specified circumstances.

Crimes/Criminal Procedure

Senate Bill 174 – Criminal Law – Restrictions Against Use and Possession of Firearms (ADMINISTRATION BILL)

Expands the prohibition against the use of handguns and antique firearms in the commission of crimes of violence or felonies to include the use of any firearm, whether loaded or unloaded. Alters the predicate crimes and increasing the maximum term of imprisonment applicable to a violation of the prohibition against a person who was previously convicted of a specified crime of violence or drug-related crime possessing a specified regulated firearm; defining "firearm."

Senate Bill 178/House Bill 162 – Criminal Law – Child Neglect (ADMINISTRATION BILL)

Prohibits a parent, family member, household member, or other person who has permanent or temporary care or custody or responsibility for supervision of a minor from neglecting the minor. In addition, it establishes the misdemeanor of child neglect and providing penalties for a violation of the Act; and it establishes that a sentence imposed under the Act is in addition to other sentence, except under some circumstances.

Senate Bill 424/House Bill 196 - Motor Vehicles - Use of Text Messaging Device While Driving - Prohibited Acts

Prohibits a person from using a text messaging device to read a text message while operating a motor vehicle; and clarifies that a prohibition against a person using a text messaging device to write, send, or read a text message while operating a motor vehicle includes a prohibition against writing, sending, or reading an electronic message; and repeals a provision of law that applies the text messaging prohibition to an operator of a motor vehicle only if the motor vehicle is in motion.

House Bill 241 - Criminal Law - Restrictions Against Use and Possession of Firearms (ADMINISTRATION BILL)

Expands to all firearms the prohibition against the use of handguns and antique firearms in the commission of a crime of violence or felony. Alters the predicate crimes and increasing to 15 years the maximum term of imprisonment applicable to a violation of the prohibition against possession of a regulated firearm by a person who was previously convicted of a crime of violence or a drug-related crime.

House Bill 801 - Criminal Procedure - Victims' Rights – Enforcement

Requires, in any court proceedings involving a crime against a victim, the court to ensure that the victim is afforded rights provided to victims by law. It authorizes a victim to file a motion requesting relief within a specified time period and provides that if the court finds that a victim's right to restitution under a specified provision of law was not considered or was improperly denied, the court may enter a judgment of restitution.

Operational Impact

Senate Bill 61 - Public Information Act - Documents Relating to Arrest Warrants

Expands access by the Department of Juvenile Services to files and records of a court relating to arrest warrants and charging documents; and repeals redundant authority that allows access by the Department of Public Safety and Correctional Services to documents relating to arrest warrants and charging documents. It also provides that provisions of law prohibiting inspection of specified court files relating to arrest warrants and charging documents may not be construed to prohibit specified release of information.

Senate Bill 132/House Bill 87 – Job Applicant Fairness Act

Prohibits employers from using an applicant's or employee's credit report or credit history in determining whether to deny employment to the applicant, discharge the employee, or determine compensation or the terms, conditions, or privileges of employment; and it authorizes an employer to request or use an applicant's or

employee's credit report or credit history under specified circumstances. It authorizes an applicant or employee to file a written complaint with the Commissioner of Labor and Industry for a violation of the Act.

[Senate Bill 182/House Bill 166 – Maryland Health Benefit Exchange Act of 2011](#)

Establishes the Maryland Health Benefit Exchange as a public corporation and an independent unit of State government; and establishes the purposes, powers, and duties of the Exchange. It also establishes the Board of Trustees of the Exchange, and provides for the qualifications, appointment, term, and removal of members of the Board. In addition, it establishes the powers and duties of the Board; and it requires the Board to appoint an Executive Director of the Exchange, with the approval of the Governor, and to determine the Executive Director's compensation.

[Senate Bill 183/House Bill 170 – Health Insurance – Conformity to Federal Law \(ADMINISTRATION BILL\)](#)

Alters the circumstances under which a person has the right to a hearing and the right to an appeal from an action of the Maryland Insurance Commissioner; and requires the Commissioner to file documents in a court in which a specified appeal is pending. It also provides that provisions of federal law apply to specified health insurance coverage issued or delivered by insurers, nonprofit health service plans, and health maintenance organizations.

[Senate Bill 218 - Public Safety - Law Enforcement Officers' Bill of Rights - Internal Investigation Unit](#)

Includes the Internal Investigation Unit of the Department of Public Safety and Correctional Services in the definition of law enforcement officer covered by the Law Enforcement Officers' Bill of Rights.

[Senate Bill 494/House Bill 464 – Income tax Credit – Teachers at State and Local Correctional Facilities for Adults and Juveniles](#)

Alters a credit against the State income tax for up to \$1,500 of tuition costs of correctional teachers to include teachers at State or local correctional facilities and juvenile facilities, and provides that a

teacher at a State or local correctional facility or juvenile facilities who is reimbursed for the tuition may not claim the credit for the amount of tuition that is reimbursed.

[Senate Bill 652/House Bill 507 – Public Safety – Use of Electronic Controlled Devices – Reports](#)

Requires a law enforcement agency that issues electronic control devices (ECDs) to its law enforcement officers to report annually on or before March 31 to the Governor's Office of Crime Control and Prevention, information for each time a law enforcement officer discharges an ECD, using a specified format. It requires the Governor's Office of Crime Control and Prevention to analyze and summarize reports and to submit an annual report to the Governor, the General Assembly, and each law enforcement agency.

[House Bill 12 – Procurement- Employee Uniforms and equipment- Place of Manufacture](#)

Prohibits a public employer, under specified circumstances, from knowingly buying, furnishing, or requiring an employee to buy or acquire for use while on duty specified uniforms and other equipment unless the uniforms or equipment are manufactured in the United States.

[House Bill 752 – Maryland Correctional Enterprises - Prohibiting Access to Personal Information](#)

Prohibits programs developed for Maryland Correctional Enterprises from allowing inmates to have access to specified personal information.

[Criminal Justice Information Systems](#)

[Senate Bill 765 – Election Law – Voter Registration – Exchange of Information](#)

Requires State agencies to provide data to the State Board of Elections for the purpose of maintaining an accurate statewide voter registration list; and, prohibits the State Board from disclosing data it receives except under certain circumstances. Additionally, it authorizes the State Board to enter into agreements with other states to exchange data that is relevant to maintaining accurate voter registration lists.

[House Bill 405 – Washington County –
Alcoholic Beverages – Criminal History
Records](#)

Requires the Board of License Commissioners of Washington County to apply to the Criminal Justice Information System Central Repository for a state and national criminal history records check for each applicant for a new alcoholic beverages license or for a transfer of an existing license; and requires the Board to submit fingerprints of each applicant and specified fees to the Central Repository. Additionally, it requires the Board to establish a fee to cover specified costs of obtaining an applicant's criminal records.